



Memorandum

Subject: Notice of Proposed Suspension

Date: December 28, 2017

From: [REDACTED]

To: Susan Hauer,
Safety and Occupational Health Manager

This notice advises you that I am proposing to suspend you from your position of Safety and Occupational Health Manager, GS-12 for ten (10) days. I am proposing this action under 5 CFR Part 752 for the purpose of promoting the efficiency of the service. I am withdrawing the Notice of Proposed Suspension dated August 8, 2017, which was a proposed suspension of three (3) days, due to procedural issues as a result of the December 15, 2017 Federal Labor Relations Authority (FLRA) decision in case BN-RP-17-0013, in which the FLRA determined that the position you occupy as the Safety and Occupational Health Manager is part of the bargaining unit.

I am issuing this proposal for a suspension of ten (10) calendar days which includes the charges from the August 8, 2017 proposal as well as additional charges since August 2017. Despite repeated warnings to you regarding what is considered insolent conduct and inappropriate challenges to my authority as your supervisor to assign you work, your inappropriate conduct has continued.

The specific reasons for this proposed suspension are as follows:

- On June 14, 2017, you were insolent in an email response regarding an email you sent to me on June 1, 2017, in which you listed tasks that you needed to complete and the associated hours of compensatory time you were requesting to complete them. We had progress meetings on June 6, 2017 and June 13, 2017, prior to you sending the June 14, 2017 email, in which you took exception to me using your level-of-effort estimations as a planning tool for assigning work tasks and deadlines for completing them. The language in your June 14, 2017 email was insolent when you stated, ***"I did not supply you with this request for comp time to have you turn around and use the estimated hours as a weekly game plan to maneuver these activities into my already overfilled***

schedule." This language also challenged my authority as your supervisor to assign you work.

- The next day, June 15, 2017, you used disrespectful and defiant language in response to an email I had sent earlier the same day in which I was asking the status of an agenda for the upcoming Safety Committee meeting that was due the previous day. I previously had stated that agendas for the Safety Committee meetings must be drafted at least one week ahead of the meeting to allow for preparation time for members with agenda items, and on June 13, 2017, I reminded you that the June 21, 2017 Safety Committee meeting date meant that the agenda would be due the next day. Your language in your June 15, 2017 email was disrespectful when you stated, **"For clarity, this was not recently established, this was an edict you created."**

- On June 21, 2017, during a meeting that was intended to be a Safety Committee meeting at the Maintenance Base conference room, you were confrontational to me, your second line supervisor, and two other members of the supervisory staff. At the start of the intended meeting, another employee, who is not a member of the supervisory staff, asked you to leave the room; and, you did so without any complaint. At some point after others had left the room and only [REDACTED] and myself, were in the conference room, you entered and stated in a loud voice, **"Does someone want to tell me why the hell I had to leave the room for a committee I am co-chair for?"**

This language was disrespectful and confrontational and was directed at your first-line and second-line supervisors and two other Chiefs. Relevant to that, is the fact that you were not asked to leave the room by anyone still present when you made that statement. You were insolent and argumentative towards me during the conversation that occurred in the conference room immediately after you made this statement. [REDACTED] intervened twice. At one point, I told you that you were being insolent because you were interrupting me, talking over me and with the way you were talking to me.

- On June 29, 2017, in an email you sent at 3:02 p.m., you challenged my authority as your supervisor to assign you work, even though I offered a reasonable opportunity for you to explain your position. Your email was in response to two emails I sent earlier that same day. In the first of the two emails that I sent to you, I stated I wanted to change the time for the weekly recurring Confined Space Task Force meeting that you were the 'meeting organizer' for in Microsoft Outlook. I stated that the other members proposed a new time, and that I agreed with it too. I asked if you could see a reason why the new timeslot would not work. In the second email I sent over four hours after the first, I stated, **"Please confirm that you see no issue with the Wednesdays at**

1230 (starting 7/12) timeslots. If no issue, please revise the Outlook invite by COB tomorrow. If so, please let me know ASAP."

In your reply email you stated, **"I have not had the time today to continually review my email for your requests or think about the consequences of moving the existing meeting,"** and, **"I am unclear why you cannot address the issue in Outlook as it is your change and your scheduled meeting and your decision to move everything without consulting me first. I cannot continue to supply you with administrative support for your engineering initiatives. Please ask [REDACTED] to assist if you cannot take care of this yourself."** This language in your email was disrespectful and insolent. The language also challenged my authority as your supervisor to assign you work

(b)

- On June 30, 2017, in an email you sent at 10:35 a.m. to me and copied [REDACTED] to update the status of tasks I had assigned to you with a due date of June 30, 2017, you stated in regards to the status of providing medical surveillance documentation and the close-out action items regarding chest x-rays that no progress was made and went on to write that, **"Your lack of understanding of the legal and moral obligations of the SLSDC to their employees related to this subject and continued threats made to me of insubordination at my inability to complete these tasks in the restricted operational hours you have given OSH is not in the best interest of the Corporation. Consideration should be given to returning these administrative functions back to the Human Resources Department as it has become obvious I do not have the hours in my day for extra secretarial/administrative support duties and you have no interest in approving any time for completion."**

You ended the email saying, **"I am requesting an explanation at our next meeting, in writing, as to why OSH has had every request for comp/over time since the beginning of January denied as well as why this is not the policy for any other persons in your chain of command."** At that point, you had accrued over eighty hours of compensatory time since the beginning of January. These statements were dishonest, disrespectful and challenged my authority as your supervisor to assign you work.

(c)

- On July 13, 2017, in an email you sent to me at 10:04 a.m., you used disrespectful and defiant language. At the end of the day on July 11, 2017, you sent me an email which included an attachment that gave a brief outline of a scope of work for sampling blast grit material stockpiled on-site. In the update meeting the next morning I told you that I did not have a chance to review what you had sent yet, but that I would review it and get back to you. On July 13, 2017, I asked you to put in a PR (purchase requisition) for that scope of work.

In your email sent at 10:04 a.m., you responded to this by stating, ***"You said you would work with [REDACTED] to get this in the system as my duty station is now at the Admin. Has this changed? I already prepared for you a bulleted draft of what the content should be. I shall assume that you will not provide me with any additional time to complete these additional duties or time to complete the duties that now have to be put aside because you are daily finding administrative or other projects for me without concern for my daily operating schedule. With your assigned additional tasks related to Medical Surveillance and Confined Space I will not have this completed by your dictate. Please refrain from setting my daily priorities without a discussion with me first about what I already have on my overflowing plate."*** These remarks were disrespectful and challenged my authority as your supervisor to assign you work.

• In a series of exchanges in an email chain, with the latest reply sent July 27, 2017, at 8:40 a.m., you used disrespectful language and challenged my authority as your supervisor to assign you work. On July 18, 2017, in an email I sent regarding medical surveillance documentation, I asked you to provide a list of employee requests for documentation and give me input on a date when you thought you could complete giving copies of their documentation to them. I also stated that, ***"We both agree that we do not want to jeopardize our compliance and regulatory status. In part, this is why I am making these items top priorities for completion."***

You replied to the email at 9:54 a.m. and stated, ***"Comp Time Request Input-it will not be completed in the regularly scheduled work hours due to existing commitments and work load-your refusal to recognize my authority to set my daily priorities is causing havoc with our OSH program."*** You also deleted out part of my comment about not wanting to jeopardize our compliance and regulatory status and stated, ***"No, I have repeatedly told you that your management by intimidation is jeopardizing our compliance-all and these have been priorities for ME for over three months-your inability to explain why the program is being held hostage by your comp time initiatives is furthering the issues."***

At 1:16 p.m. on the same day I restated my assignment when I wrote, ***"Please complete what I have assigned below regarding Medical Surveillance Documentation today (requested this morning)."*** You replied at 2:31 p.m., ***"Per my email below, that will not be completed today (repeated this afternoon)."***

On July 27, 2017, at 8:12 a.m., I again assigned the same task to be completed that day since it was still not completed. You responded at 8:40 a.m. with, ***"Much as you do not appreciate having deadlines set for you by others, I am continually requesting you not prioritize my days for me. It is***

intimidating and bullying and continues to cause havoc in my program. I shall request it again [now]....it is my job to prioritize my day. It is your job to obviously continue to deny me the appropriate time to accomplish these secondary administrative functions." The language you used in these email exchanges showed insolent conduct. Your language was disrespectful and multiple times you challenged my authority as your supervisor to assign you work.

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- On September 7, 2017 at approximately 10:33 a.m. at the Maintenance Base conference room just prior to a meeting that was about to begin, you were insolent when you threw a pen at [REDACTED] to get his attention to stop talking. [REDACTED] was sitting next to, and talking to [REDACTED] Members of the Confined Space Committee, which included management and non-management employees were present in the room awaiting the start of a meeting.

The next day in a phone conversation at about 9:15 a.m. between you and I, I asked you if you threw a pen at [REDACTED] and [REDACTED] at the meeting. You replied to me, *"Is there a problem with that?"* You later stated that it was directed at [REDACTED] and that the reason was to get his attention to stop talking. I told you that is was not acceptable behavior to throw a pen at anyone for any reason.

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- On October 3, 2017, at 11:18 a.m., you returned a call to me regarding an Agency Technical Assistance Request (ATAR) with OSHA. During this conversation, I informed you that an OSHA employee had called my supervisor looking for you and he transferred the call to me not knowing where you were. Your response was, *"Nice try, I don't think so."* This language was disrespectful.

As the conversation continued, I informed you that a different OSHA employee would be calling me again shortly. You responded with *"So you're the OS&H manager now?"* I told you that I did not appreciate your tone of voice. I went on to say that when OSHA calls me back, I was going to try to conference-in you and [REDACTED] You asked why you needed to be a part of this call and I informed you that you needed to be on the call and thought the Chief of Security did too. You sarcastically responded, *"How many calls are you going to schedule for me?"* This language was disrespectful.

On October 4, 2017, I emailed you asking if you had heard from OSHA, and told you that I was waiting for them to call me still. Your response was that you had spoken to them and had investigated the ATAR program with OSHA and NYSDOL. I responded to your email saying, *"I find this very troubling. We discussed twice yesterday about this, and I made it very clear that I*

wanted you, [REDACTED] and I to have a preliminary discussion together with OSHA about what the ATAR program is and what it can do for us."

You then responded, *"I am unclear as to why you are troubled as I am able to perform investigations related to OSH issues. It was not intended to as a conversation to schedule an appointment, in the best interest of the committee and to keep the process moving forward this was the right thing to do."* You inappropriately challenged my authority to assign you work

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- In email exchanges spanning October 24, 2017 to October 25, 2017, you continued to display insolent conduct and inappropriately challenged my authority to assign you work. An example of this within the email exchanges was when you said, *"Your behavior exhibits a fundamental lack of understanding of the level of effort required to satisfactorily keep the corporation in compliance. If you would prefer not to have compliance please indicate that by email."*

Another example of this language in the email exchanges was when you stated, *"Please indicate if you will approve time to complete this task by your dictated completion date."*

Another example of this language in the email exchanges was when you stated, *"I have been able to coordinate these activities for the past two years without the assistance of Engineering. If you would like to take over the coordination of these events, please let me know. Otherwise I would appreciate you letting me do my job."*

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- On November 15, 2017, in an email I sent at 12:37 p.m., I assigned you the task of revising the agenda you submitted to me for training over a two-day span. I explained that the revised agenda needed to show timeslots for training items and also stated, *"I recall that [Chief Counsel] and [Chief of Security] piggy-backed onto this session to do a presentation last year. Please reach out to them and see if they want/need to do that again for this one, and incorporate that into the agenda."* I assigned the revised agenda to be completed by close-of-business on Friday, November 17, 2017.

Your responded, *"There are no time slots as you asked for a list of training items, not a detailed agenda."*

"I will be requesting comp time in order to meet your deadline. Otherwise this task will not be completed in dictated time frame & I will need to be completed it over the weekend for a Monday deliverable." I responded that it needed to be completed on time and during normal business hours and that

reaching out to the Chief Counsel and the Chief of Security only made sense during business hours.

Your responded, *"This is not the traditional forum for [REDACTED]-they present in the Spring Meeting after Winter Work."*

"As the OSH Manager, I am providing you with the courtesy of letting you know your time lines are unrealistic and that administrative tasks you have set as my highest priority cannot be accomplished during your limited timeframe."

I did not receive the agenda by November 17, 2017.

Your language demonstrated insolent conduct and inappropriately challenged my authority as your supervisor to assign you work.

- 16. On November 21, 2017, I assigned you the task to post some Word documents to the Shared Safety Folder on the network by the close-of business of Monday, November 27, 2017. I reminded you of this in an email I sent you the next day. You did not complete this. In the weekly meeting on December 5, 2017, I asked you about this and you told me that you still had not completed it. I then assigned it again to you to be complete by the end of the day on December 5, 2017. It was not completed by then either. Your behavior was inappropriate and it challenged to my authority as your supervisor to assign you work.
- 17. On November 21, 2017, you indicated that based on safety hazards associated with fiberglass insulation demolition in the Snell north cable gallery, employees would be required to wear a Tyvek and at least a half-face respirator in the gallery. I instructed you at 8:25 a.m. on November 22, 2017 via email to, *"As soon as possible (before lunch-time today at least) please put signage on the doors leading down to the upstream and downstream ends of the gallery."*

You responded in an email at 8:47 a.m. on the same day, *"Jon [Chapman] came to my office earlier and already requested signage & gave me the verbiage-they are already made and currently being laminated-Jon will hang them before he leaves today."*

I replied to you later that morning at 11:55 a.m., *"I think Jon left for the day. Please post the signs by 2:00 PM today."*

You then replied six minutes later at 12:01 p.m., stating, *"He did leave the MB and is at the Admin and I intend on leaving shortly. [REDACTED] has the signage and is here until 3 and was instructed to hang them before he leaves. Please remember I am not the COTR on this project; I have no*

problem providing oversight in [REDACTED] absence as I did on Monday, but as [REDACTED] is on sight he needs to take the lead on this."

At about 12:20 p.m. that day, I went down to your office with the laminated signs and informed you that you needed to post them. You questioned why [REDACTED] wasn't doing it and stated, "**[REDACTED] needs to own the project.**" I asked when you planned on leaving for the afternoon. You said that you were leaving at 1:30 and I informed you that I would approve the leave. I told you to please hang the signs. You responded, "**This is insulting.**" I left your office doorway at that point. This language showed insolence and inappropriately challenged to my authority as your supervisor to assign you work.

- 14 • In part of an email reply I sent you on December 7, 2017 at 1:32 p.m., regarding several questions you had emailed me about related to the performance improvement plan letter I issued you, I wrote, "**I will be in training until 4:00 PM today and as you pointed out tomorrow is your RDO. Therefore, I would suggest we have a meeting on Monday to go over anything that is not clear in the letter. I feel email exchanges back and forth is not an effective or efficient way to do that.**" In your reply email sent at 2:04 p.m. the same day, you addressed my statement writing, "**It is effective and efficient for me, I am sorry it is not for you but I will no longer work on verbal direction from you for the reasons listed above.**" This language showed insolence and inappropriately challenged to my authority as your supervisor to assign you work.

- 15 • In a reply email, you sent on December 19, 2017 at 9:29 a.m., you used language that inappropriately challenged my authority to assign you work. In an email, I sent on the same day at 8:28 a.m., I asked you to, "**Please provide more detail of what was accomplished with comp time this last weekend and how much/when you used it. You had mentioned a lot of things in your request email for the time.**" In your reply email you stated, "**I am unclear as to why I have to provide a second (third?) additional clarification on the approved comp time. The bottom line is all the requests are to facilitate the completion of the items you have dictated in the PIP. This detailed explanation is not required of your other direct reports. Again, I worked four hours on Saturday and four on Sunday. If you need additional clarification please provide me with the comp time to prepare these additional documents.**"

In my 8:28 a.m. email I also gave you a directive when I stated, "**For the [REDACTED] memo, I believe what he said was that Lock Ops personnel were going to be required and leave restricted to facilitate them attending the training. If so, then I think that would cover the Lock Ops personnel he directed the memo to. Please get a copy of that memo and send me a copy. There are still many more employees that need to have a plan.**" In

your reply email you stated, "The [REDACTED] memo had been posted last week to the PIP folder on the ShareSafety drive as I told you yesterday. Please contact Steve directly with any memo clarifications." I do not recall you telling me on the previous day that the memo was in a network drive location.

These statements were disrespectful and inappropriately challenge my authority to assign you work.

Proposal:

I am proposing a ten (10) calendar day suspension, in part, because your behavior has caused me, your supervisor, to lose trust in your ability to adhere to acceptable standards of conduct within the office. Continued misconduct of this type will not be tolerated.

YOUR RIGHT TO RESPOND TO THIS NOTICE

In accordance with the Collective Bargaining Agreement, item 28-4(b), you have the right to respond orally, in writing via the U.S. Mail, or both, and may present affidavits or other evidence. Your response (including any and all other documents and/or information you wish to submit) must be received within 10 calendar days following your receipt of this proposal. Therefore, if you choose to respond, your response must be received by the close of business on January 8, 2018.

If you choose to submit a response, careful consideration will be given to all the information you provide. Your response must be addressed to the deciding official;

[REDACTED]
[REDACTED]
Saint Lawrence Seaway Development Corporation
1200 New Jersey Avenue, S.E., Washington, D.C. 20590.

Any oral reply you wish to make must be scheduled in advance. To schedule an oral response, you must contact [REDACTED] via the SLSDC Chief of Staff, [REDACTED]
[REDACTED]

You have the right to be represented by an attorney, other representative, or you may represent yourself per 5 USC 7513(b) (3). As you are a member of AFGE Local 1968, you may request representation from the Union if you so desire. You also have the right not to be represented if you prefer.

If you and/or your designated representative wish to have a conference with the deciding official to present an oral response, you must notify the deciding official of your request, so that your presentation can be scheduled within the 10 calendar days response time.

Your response should include any reasons why you feel the proposed ten (10) day suspension is inappropriate. You may present any evidence, such as medical documentation, which you believe the deciding official should consider in making a final decision.

You are allowed a reasonable amount of duty time, up to 8 hours, to prepare your response. Please request the duty time from your direct supervisor at least one full business day in advance. Consideration will be given to extending the amount of duty time, however, such a request must be submitted in writing to your direct supervisor, stating the reasons for desiring more time and specifying the amount of additional duty time required.

If you have any questions concerning your rights or procedures related to this Notice of Proposal of Suspension or wish to review any evidence relied upon for this proposal, you may contact [REDACTED]

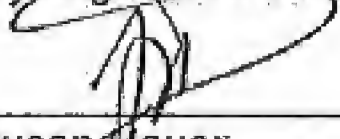
Following receipt or presentation of your response or upon expiration of the time allowed for you to respond, a written decision will be issued to you by the deciding official.

As an employee at SLSDC, you may access our confidential Employee Assistance Program (EAP) by calling [REDACTED]

Attached – The Douglas Factors

Acknowledgement of Receipt

My Signature below only acknowledges my receipt of this document.



Susan Hauer

12.28.17
Date

3:40
Time

Witness to the signature above:

[REDACTED]
Witness

12/28/17
Date

3:40
Time

Cc:

